

ORIGINAL

Decision No. 81603

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of EVERALL M. CAILLIER, dba E. M.
Caillier Trucking, to transfer
Cement Carrier Certificate to
Randy Caillier and Kurt Caillier.

Application No. 54005
(Filed May 2, 1973;
amended May 23, 1973)

O P I N I O N

An order is sought authorizing Everall M. Caillier, doing business as E. M. Caillier Trucking (transferor), to sell, and Randy Caillier and Kurt Caillier, doing business as R & K Trucking (transferees), to acquire, a "grandfather" certificate of public convenience and necessity to operate as a cement carrier (Section 1063, Public Utilities Code), and related assets.

The cement carrier certificate to be transferred was issued and confirmed to transferor under Commission Resolution No. 13821 (sub-No. 61) dated June 23, 1964 in Application No. 46411. The territories to be served under said cement carrier certificate include deliveries to all points within Kern, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties from any and all points of origin.

The applicants allege that the transferees are the nephews of the transferor; that Randy Caillier is 21 years of age and Kurt Caillier is 25 years of age; that the transferees have been engaged for several years in helping their father operate a ready mix plant and the related trucking; that there is no consideration for the transfer; that the transferees are well able financially to carry on the transportation business of the transferor pursuant to the cement carrier certificate; and that the transferees agree to file all reports required by the Commission. A financial statement of the transferees attached to the application shows that as of April 25, 1973 they had \$18,000 in cash and no liabilities.

Findings

1. The transfer herein considered is not adverse to the public interest.
2. A public hearing is not necessary.
3. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

We conclude that the application should be granted. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Everall M. Caillier and the issuance of a certificate in appendix form to Randy Caillier and Kurt Caillier, doing business as R & K Trucking.

Randy Caillier and Kurt Caillier are placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. On or before October 1, 1973 Everall M. Caillier may transfer, and Randy Caillier and Kurt Caillier may acquire, the operative rights and property referred to in the application.
2. Within thirty days after the transfer the transferees shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.
3. Transferees shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that they have adopted or established, as their own, said rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the

public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 117-Series. Failure to comply with and observe the provisions of General Order No. 117-Series may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, transferees shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the transferor for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Randy Caillier and Kurt Caillier, doing business as R & K Trucking, authorizing them to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points particularly set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Resolution No. 13821, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Transferees are placed on notice that, if they accept the certificate of public convenience and necessity herein granted, they will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, and insurance requirements of the Commission's General Order No. 100-Series.

8. Transferees shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. Transferees shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If they elect not to transport collect on delivery shipments, they shall make the appropriate tariff filings as required by the General Order.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 17th day of JULY, 1973.

Vernon L. Sturgeon
President
J. P. Valentin Jr.
[Signature]
[Signature]
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Randy Caillier and Kurt Caillier, doing business as R & K Trucking, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to conduct operations as a cement carrier as defined in Section 214.1 of the Public Utilities Code, from any and all points of origin to any and all points in the Counties of:

Kern, Los Angeles, Orange, Riverside, San Bernardino and Ventura.

RESTRICTION: Whenever Randy Caillier and/or Kurt Caillier, doing business as R & K Trucking, engage other carriers for the transportation of property of Everall M. Caillier and/or Caillier Investment Corporation and/or Ann Equipment Rentals and/or A & A Ready Mix Company or customers or suppliers of said individual, companies or corporations, Randy Caillier and/or Kurt Caillier, doing business as R & K Trucking, shall not pay such other carriers rates and charge less than the rates and charges published in the tariffs filed with this Commission by Randy Caillier and Kurt Caillier, a partnership, doing business as R & K Trucking.

This certificate of public convenience and necessity shall lapse and terminate if not exercised for a period of one year.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

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